

person required by this part to keep records shall make available for examination such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as are under such person's control.

**§ 1446.803 Retention of records.**

Persons required to maintain records under this part shall maintain all records for a period of three years following the end of the marketing year in which the peanuts were produced. Notwithstanding the preceding sentence, records relating to contract additional peanuts for which penalties or liquidated damages have been assessed, shall be retained for 6 years following the date the assessment was made or until the conclusion of the assessment action, whichever is later and records shall be kept for such longer periods of time as may be requested in writing by CCC.

**§ 1446.804 Information confidential.**

All data requested and obtained by the Secretary in accordance with the provisions of this part shall be kept confidential by all employees of USDA and of the marketing association. Such data shall be released only at the discretion of the Executive Vice President, CCC, and then only to the extent that such release is not prohibited by law.

**§ 1446.805 Penalty for failure to keep records and make reports.**

Any person, who fails to make any report or keep any record as required under this part or who falsifies any information on any such report or record shall be subject to a penalty in accordance with § 1446.703 of this part.

**§ 1446.806 Fraud by handler.**

Any misrepresentation made or effectively made by a handler within or without the records or reports maintained in connection with this part shall be subject to a penalty under this part and such penalty shall be in addition to any other remedies available by law for such misrepresentation (including, but not limited to, criminal prosecution). In addition, the handler and any individual or other person involved with such misrepresentation, including

employees of the handler, shall be liable to CCC for all costs which CCC incurs as a result of such misrepresentation, together with interest at the per annum rate which the Treasurer of the United States charged CCC on the date the misrepresentation was made.

**§ 1446.807 Paperwork Reduction Act assigned numbers.**

The information collection requirements contained in these regulations (7 CFR part 1446) have been approved by the Office of Management and Budget (OMB) in accordance with 44 U.S.C. Chapter 35 and have been assigned OMB control numbers 0560-0006, 0560-0014 and 0560-0133.

[56 FR 38331, Aug. 13, 1991]

**PART 1463—2005–2014 TOBACCO TRANSITION PROGRAM**

**Subpart A—Tobacco Transition Assessments**

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1463.113 Issuance of payments in event of death.

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### Subpart C—Miscellaneous Provisions

1463.201 Refunds of importer assessments.

AUTHORITY: 7 U.S.C. 714b and 714c; and Title VI of Pub. L. 108-357.

SOURCE: 70 FR 7011, Feb. 10, 2005, unless otherwise noted.

### Subpart A—Tobacco Transition Assessments

#### § 1463.1 General.

The Commodity Credit Corporation (CCC) will levy assessments from January 1, 2005 through September 30, 2014 on certain domestic manufacturers and importers of tobacco products as provided for in this subpart in order to fund the issuance of payments made under subpart B of this part and to fund other activities authorized by Title VI of the American Jobs Creation Act of 2004. The total amount of assessments that may be collected under this part shall not exceed \$10.140 billion.

#### § 1463.2 Administration.

The provisions of this subpart will be administered under the general supervision of the Executive Vice President, CCC.

#### § 1463.3 Definitions.

The definitions in this section shall apply for all purposes of administering the provisions of this subpart:

*Act* means Title VI of the America Jobs Creation Act of 2004 (Public Law 108-357).

*Adjusted market share* means the market share of a manufacturer of tobacco products or an importer of tobacco products adjusted to reflect such entity's share of a class of tobacco during the immediately preceding calendar year quarter. With respect to the 39th and 40th quarterly payments due on September 30, 2014, the adjusted market share will be the entity's share of a class of tobacco during the April 1–June 30, 2014 quarter.

*Base period* means the period July 1 through June 30 immediately preceding the beginning of a fiscal year.

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*CCC's point of contact* means, for items physically sent to CCC, “Tobacco Division (TD), Farm Service Agency, United States Department of Agriculture (USDA), STOP 0514, Room 4080–S, 1400 Independence Avenue, SW., Washington, DC 20250–0514” unless otherwise specified by CCC through actual notice and, for all correspondence by email, *tob\_comments@wdc.usda.gov*.

*Calendar year* means the period January 1 through December 31.

*Class of tobacco* means each of the following types of tobacco and tobacco products for which taxes are required to be paid for the removal of such into domestic commerce: cigarettes; cigars; snuff; roll-your-own tobacco; chewing tobacco; and pipe tobacco.

*Domestic manufacturer of tobacco products* means an entity that is required to obtain a permit from the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury with respect to the production of tobacco products under title 27 of the Code of Federal Regulations.

*Fiscal year* means the period October 1 through September 30.

*Gross domestic volume* means the volume of tobacco products removed, as defined by section 5702 of the Revenue Code, and not exempt from tax under chapter 52 of such code at the time of their removal under that chapter or the Harmonized Tariff Schedule of the United States.

*Importer of tobacco products* means an entity that is required to obtain a permit from the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury with respect to the importation of tobacco products under title 27 of the Code of Federal Regulations.

*Market share* means the share of each domestic manufacturer and importer of a class of tobacco product, to the fourth decimal place, of the total volume of domestic sales of the class of tobacco product in the base period. Such sales shall be determined by CCC by using the total volume of such class of tobacco product that is removed into domestic commerce in the base period.

*National assessment* means the total amount of funding that CCC has determined to be necessary to collect in a year from domestic manufacturer and